

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
AT KANSAS CITY**

BILLIE RODRIGUEZ, DANIEL ERWIN,
MICHAEL B. ACKERMAN, and KYLE
FOREMAN, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

Case No.: 4:24-cv-00803-SRB

EXXON MOBIL CORPORATION,
CHEVRON USA INC., CHEVRON PHILLIPS
CHEMICAL CORPORATION, DUPONT de
NEMOURS, INC., DUPONT
CORPORATION, CELANESE
CORPORATION, DOW INC., DOW
CHEMICAL COMPANY, EASTMAN
CHEMICAL COMPANY,
LYONDELLBASELL INDUSTRIES N.V., and
AMERICAN CHEMISTRY COUNCIL,

Defendants.

**CONSENT MOTION TO EXTEND SPECIALLY APPEARING DEFENDANT EXXON
MOBIL'S TIME TO ANSWER, RESPOND OR OTHERWISE PLEAD TO PLAINTIFFS'
COMPLAINT AND SUGGESTIONS IN SUPPORT**

COMES NOW Exxon Mobil Corporation (hereinafter ExxonMobil)¹ by and through counsel and moves that the Court enter an Order Extending for 30 days ExxonMobil's Deadline to Answer, Respond by Motion or Otherwise Plead to Plaintiffs' Complaint up to and including February 10, 2025. As discussed further in the Suggestions in Support of this motion, Counsel for Plaintiffs has consented to the relief requested in this motion.

¹ ExxonMobil has specially appeared to contest venue via the first-filed rule. By filing this motion, ExxonMobil does not concede jurisdiction is proper in the Western District of Missouri or the District of Kansas, and the instant motion does not prevent ExxonMobil from subsequently filing 12(b) motions in either forum, including but not limited to motions challenging personal jurisdiction under 12(b)(2). ExxonMobil explicitly preserves all defenses under Fed. R. Civ. P. 12(b), including, but not limited to, 12(b)(2) and intends to file such motions. See Fed. R. Civ. P. 12(h)(1). *Lewis & Clark Reg. Water Sys., Inc. v. Carstensen Contracting, Inc.*, 355 F. Supp. 3d 880 (D.S.D. Dec. 31, 2018); *Dekalb Genetics Corp. v. Syngenta Seeds, Inc.*, No. 4:06CV01191-ERW, 2007 WL 1223510, at *5 (E.D. Mo. Apr. 24, 2007).

The Suggestions in Support of this Motion are incorporated by this reference and set forth below.

SUGGESTIONS IN SUPPORT

In support of this motion, ExxonMobil states as follows:

1. Plaintiffs and ExxonMobil have conferred at length regarding the relief requested herein in a collegial and professional manner. In telephone conversations and email exchanges on December 23, 26, 27, 29, 30, 31, 2024 and January 1, 2025 Richard Bien, one of ExxonMobil's attorneys, and Rex Sharp, one of Plaintiffs' attorneys discussed ExxonMobil's request for the relief requested in this motion and the relief Plaintiffs requested in their Motion to Extend (Doc. # 11). In an email on January 1, 2025, Plaintiffs, via their attorney Rex Sharp, agreed to the relief requested in this motion.

2. ExxonMobil was served with process on December 20, 2024. Its current deadline to Answer, Respond or otherwise plead to Plaintiffs' Complaint is January 10, 2025. The consented 30-day extension would extend the response date to Sunday February 9, 2025 and by operation of Fed. R. Civ. P. 6 (a)(1)(C) the 30 day period then is extended to Monday, February 10, 2025.

3. Plaintiffs' Complaint contains 45 counts, alleges, two nationwide putative classes and 35 putative state classes, avers at least 45 different legal theories and is 92 pages long. (Doc. #1.) Due to the timing of service, a few days prior to commencement of the Chanukah, Christmas, Kwanza, and New Year holidays ("holidays") and the complexity of Plaintiffs' Complaint ExxonMobil has requested additional time to prepare its response to Plaintiffs' Complaint.²

² As evidenced by its previously filed Motion to Transfer (Docs. # 3 and # 4) and Motion to Stay (Doc # 5), ExxonMobil believes that its time to respond or move against the Complaint should be stayed until these motions are decided. As indicated in their Motion to Extend (Doc. # 11), Plaintiffs plan to oppose ExxonMobil's Motions to Stay and Transfer.

4. Plaintiffs sought and ExxonMobil agreed to an 11-day extension of Plaintiffs' deadline to respond to the Stay and Transfer motions (Doc. #11). The Court granted Plaintiffs' consent motion (Doc. #12). Plaintiffs' response date is now January 17, 2025. Pursuant to W.D. Mo. Local Rule 7.0(c) and assuming Plaintiffs file their responses on the due date, ExxonMobil's reply date is January 31, 2025, ten days prior to the proposed deadline to respond to Plaintiffs' Complaint. Upon filing of ExxonMobil's reply, the Stay motion and Transfer motion will be ripe for determination and ExxonMobil is hopeful that at least the Stay motion can be resolved, before its Motion to Dismiss is due.

5. As of the date of this filing, ExxonMobil is uncertain as to the status of service on other Defendants. From the docket, it does not appear that all Defendants have been served. During the proposed extension period, other Defendants may be served. After Defendants are served and appear the Parties may be able to coordinate joint briefing, response dates and briefing schedules.³

6. As of this filing, ExxonMobil's time to Answer, Respond or Otherwise Plead to Plaintiffs' Complaint has not expired.

7. This Consented Motion is not filed for purposes of delay, but rather in a good faith effort to extend the current responsive pleading deadline in light of the impact of the holidays, and the complexity of Plaintiffs' Complaint and these factors' impact on ExxonMobil's time to prepare its Motion to Dismiss.

WHEREFORE, the Parties respectfully pray that the Court enter an Order granting the relief requested in this motion, to wit:

³ ExxonMobil counsel anticipates seeking an extension of page limits for Suggestions in Support of its Motion to Dismiss. Counsel for Plaintiffs and ExxonMobil are in discussion about a potential consent motion for expanded page limits for SIS, SIO and Replies, and a briefing schedule. The nature of such a page limit extension motion may also be influenced by whether any motions in response to the Complaint will be multi-defendant consolidated motions.

1. Extending ExxonMobil's time to respond, or otherwise plead to Plaintiffs' Complaint, a period of thirty days to and including February 10, 2025.

Dated: January 3, 2025

Respectfully submitted,

/s/ Richard N. Bien
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Attorneys for Defendant ExxonMobil Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of January, 2025 a copy of the above pleading was served via the District Court ECM/ECF system on all counsel of record.

/s/ Richard N. Bien
An Attorney for Defendant
ExxonMobil Corporation